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29; *Kuhn v. Buhl* (1916) 251 Pa. 348, 96 Atl. 977; 42 L. R. A. (N. S.) 1198, note. These principles have generally not been applied to private sales not at public auction. *Morrison v. Darling* (1874) 47 Vt. 67; *White v. McMath* (1913) 127 Tenn. 713, 156 S. W. 470. Yet there are a few decisions which have so extended them. *Kincheloe v. Taylor* (1918) 123 Va. 178, 96 S. E. 167; *Boyle v. Adams* (1892) 50 Minn. 255, 52 N. W. 860. The latter case is perhaps justifiable on the ground that public property was involved. The growing tendency, however, has been to inquire into the intent and purpose of the parties and to uphold the agreement or combination whenever its object is not to stifle or paralyze competition. The agreement, therefore, will be upheld where it is entered into solely to make the purchase possible, or to protect an interest or effect a bona fide partnership. *Smith v. Ullmann* (1881) 58 Md. 183 (to make the purchase possible); *Hopkins v. Ensign* (1890) 122 N. Y. 144, 25 N. E. 306 (to protect an interest); *Hegness v. Chilberg* (1915, C. C. A. 9th) 224 Fed. 28 (to effect a bona fide partnership). The principal case is doubtless in accord with the English authorities. *Heffer v. Martyn* (1867) 36 L. J. Ch. 372; *Leopard v. Litoun* (1897, Q. B.) 41 Sol. Jo. 545. But considering the nature of the sale, the purpose of the agreement and its effect, the dissenting opinion would seem to be sounder, and certainly it is in accord with the American decisions.

CONFLICT OF LAWS—DOMICIL OF A MARRIED WOMAN.—A Scotswoman married a Scotsman while both were domiciled in Scotland. In 1893 the husband emigrated to Australia at the instance of his wife, and ceased to communicate with her. In 1902 he went through the form of marriage with another woman and lived with her until his death in Queensland in 1918. The wife commenced divorce proceedings in Scotland, but died in 1915 before a decree was secured. The Commissioners of Internal Revenue brought this action to subject her estate to legacy duties, on the theory that her domicile was in Scotland. The Lord Ordinary held that the husband had a domicile in Queensland but that the wife's domicile remained in Scotland. The Court of Session, by a majority, held that the wife's domicile was in Queensland. *Held*, that the wife's domicile was in Queensland. *Lord Advocate v. Jaffrey* [1921, H. L.] A. C. 146.

The American courts have followed a far more liberal rule than the English doctrine. Where the husband has given cause for divorce, all courts of the United States allow the wife to establish a domicile for the purpose of divorce, wherever she wishes. *Ditson v. Ditson* (1856) 4 R. I. 87; *Beale, Domicile of a Married Woman* (1917) 2 So. L. Q. 93, 101; but see *Burtis v. Burtis* (1894) 161 Mass. 508, 37 N. E. 740. There has been a growing tendency to allow a wife who has grounds for divorce to obtain a domicile for other purposes. *Buchholz v. Buchholz* (1911) 63 Wash. 213, 115 Pac. 88 (letters of administration); *Watertown v. Greaves* (1901, C. C. A. 1st) 112 Fed. 183 (purposes of jurisdiction); *Shute v. Sargent* (1893) 67 N. H. 305, 36 Atl. 282 (probate); *contra, Estate of Wickes* (1900) 128 Calif. 270, 60 Pac. 867. These cases have been criticised on the ground that the family is still the fundamental unit of our legal civilization and it must have one definite domicile. *Beale, Domicile of a Married Woman, supra*. The husband's privilege of fixing the family domicile rests upon his duty to support his family. *In re Bushby* (1908, Surro.) 59 Misc. 317, 112 N. Y. Supp. 262. When he fails to fulfil his matrimonial duties, the reason for his privilege fails. And under the present emancipation of woman, since she is *sui juris*, and can have dealings with others, she should be directly amenable to the law and hence should have a legal home of her own. *Levitt, Domicile of a Married Woman* (1920) 91 CENT. L. J. 24, 28. The interests of the state are not served by depriving a wronged wife of the privilege of establishing a legal domicile. As a practical matter, knowledge that she cannot have a separate legal domicile will not in the least deter her from leaving her husband

and breaking up the family entity if she wishes to. Some cases in the United States have allowed a married woman to obtain separate domicile even where the husband has given no ground for divorce. *Chapman v. Chapman* (1889) 129 Ill. 386, 21 N. E. 806; *Buchholz v. Buchholz*, *supra*; *Saperstone v. Saperstone* (1911, Sup. Ct.) 73 Misc. 631, 131 N. Y. Supp. 241; *contra*, *In re Bushby*, *supra*; *Cheely v. Clayton* (1884) 110 U. S. 701, 4 Sup. Ct. 328. It is submitted that the wife should not be allowed to benefit by her own wrong and that the grounds of policy for allowing a separate domicile do not apply where the husband has not given cause for divorce or legal separation. England does not, in general, allow a separate domicile to a married woman even for divorce proceedings. *Dolphin v. Robins* (1859) 7 H. L. Cas. 390. The instant case is in accord with the less liberal English rule.

CONTRACTS—RESTRAINT OF TRADE—RESTRAINT ON ALIENATION OF PROPERTY MANUFACTURED UNDER SECRET PROCESS.—This suit was brought to restrain the Coca-Cola Co. and the Coca-Cola Bottling Co. from executing contracts alleged to be within the anti-trust laws of the state. By the contracts the Coca-Cola Co. granted the privilege of bottling to the Bottling Co., the latter agreeing to buy all their syrups from the Coca-Cola Co. and not to resell the syrup thus bought. *Held*, that the contract, by restraining the resale of the syrups, merely restricted the grantee in the exercise of a privilege, and was therefore valid. *Coca-Cola Co. v. State* (1920, Tex.) 225 S. W. 791.

In general, restraints on alienation are considered void. *Park & Sons Co. v. Hartman* (1907, C. C. A. 6th) 153 Fed. 24. But where the restraint is found to be reasonable, with respect both to the public and to the contracting parties, and is limited to what is fairly necessary to the protection of the covenantee, it will be sustained. *Ford Motor Co. v. Boone* (1917, C. C. A. 9th) 244 Fed. 335; cf. *Continental Candy Corp. v. Calif. Sugar Co.* (Dec. 28, 1920) U. S. D. C. S. D. Calif. No. 579. It cannot, however, be upheld solely because the article sold is manufactured under a patent or secret process. *Straus v. Victor Talking Machine Co.* (1916) 243 U. S. 490, 37 Sup. Ct. 412. A patent does not confer upon the patentee the right to sell or use the patented article; he has these rights without a patent. He only gets a right to exclude others from using his invention or discovery. See Munson, *Control of Patented and Copyrighted Articles after Sale* (1917) 26 YALE LAW JOURNAL, 270, 272. When title to the chattels is passed by the patentee, they are no longer subject to the patent monopoly. *Motion Picture Patents Co. v. Universal Film Mfg. Co.* (1916) 243 U. S. 502, 37 Sup. Ct. 416. Most of the cases holding restraints on alienation to be invalid do so on the theory that they have for their purpose the destruction of competition. *Hill Co. v. Gray & Worcester* (1910) 163 Mich. 12, 127 N. W. 803. Other cases go on the theory that a free right of alienation is an incident to the general right of property in articles which pass from hand to hand in commerce. See *Dr. Miles Medical Co. v. Park & Sons Co.* (1908, C. C. A. 6th) 164 Fed. 803, 806. The latter rule is based upon public policy and if a transaction does not infringe the policy which the rule carries out, then it is not illegal. See Kales, *Contracts and Combinations in Restraint of Trade* (1918) sec. 35. The principal case, not being one where competition was restricted, comes within the last class of cases. As there was no public demand for the syrup, as such, and as no one but the licensee of the defendant could bottle the beverage, it was a contract protecting the rights retained by the covenantee and the restraint seems reasonable and not against public policy. The reasoning of the court, that the restraint on the resale of the article was a restriction on the exercise of a privilege that was granted, seems faulty. Though the restriction as to the resale was imposed before the syrup was sold by the defendant and at the time when the privilege was granted, it attached to the article and was in effect a restraint on the alienation of the article itself.